

The opinion in support of the decision being entered today was *not* written for publication and is *not* binding precedent of the Board.

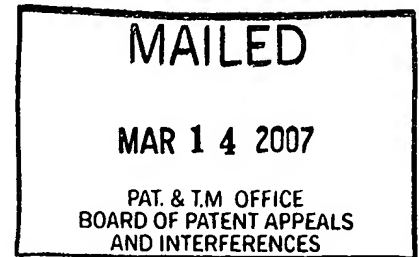
UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte DIRK SCHMIEDING and CHRISTA WELLMANN

Appeal No. 2006-2766
Application No. 10/635,174
TC: 2800

Decided: March 14, 2007



Before JOSEPH F. RUGGIERO, LANCE LEONARD BARRY, and MAHSHID D.
SAADAT, *Administrative Patent Judges*.
SAADAT, *Administrative Patent Judge*.

DECISION ON APPEAL

This is a decision on appeal under 35 U.S.C. § 134(a) from the Examiner's final rejection of claims 2, 8, 10, and 11. Claim 1 has been canceled while claim 9 is allowed and claims 3-7 remain objected to as being dependent upon a rejected base claim but otherwise allowable.

We reverse.

BACKGROUND

Appellants' invention is directed to a plug connector having various types of contacts. An understanding of the invention can be derived from a reading of exemplary independent claim 2, which is reproduced as follows:

2. A plug connector comprising a housing including an accommodation chamber, and a support plate which is arranged in said accommodation chamber and divides the latter in first and second sections, a first type of contact being arranged in said first section and a second type of contact being arranged in said second section, said second type of contact being a USB coupling, wherein two USB couplings are provided which are mounted to said support plate so as to face away from each other.

The Examiner relies on the following references:

Capper	US 5,513,075	Apr. 30, 1996
Shiu	US 5,961,350	Oct. 5, 1999
Yi	US 6,296,534 B1	Oct. 2, 2001

Claims 2, 8, and 10 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Yi and Shiu.

Claim 11 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Yi, Shiu, and Capper.

We refer to the Briefs and the Answer for the respective positions of Appellants and the Examiner.

OPINION

In rejecting the claims, the Examiner characterizes element 30 in Figure 8 of Yi as the claimed “housing including an accommodation chamber” and relies on Shiu for disclosing USB couplings mounted on a support plate arranged in the accommodation chamber (Answer 4). Appellants assert that the housing identified in Yi is in fact a non-conductive encapsulation formed by injection molding which contains no cavity within the finished housing (Br. 5; Reply Br. 4). Therefore, the main point of contention is based on whether the encapsulation of Yi, alone or in combination with Shiu, provides a housing including an accommodation chamber, as recited in claim 2.

As a general proposition, in rejecting claims under 35 U.S.C. § 103, the Examiner bears the initial burden of presenting a prima facie case of obviousness. *See In re Rijckaert*, 9 F.3d 1531, 1532, 28 USPQ2d 1955, 1956 (Fed. Cir. 1993) and *In re Fine*, 837 F.2d 1071, 1074, 5 USPQ2d 1596, 1598 (Fed. Cir. 1988). A prima facie case of obviousness is established when the teachings of the prior art itself would appear to have suggested the claimed subject matter to one of ordinary skill in the art. *See In re Bell*, 991 F.2d 781, 783, 26 USPQ2d 1529, 1531 (Fed. Cir. 1993); *In re Fritch*, 972 F.2d 1260, 1266 n.14, 23 USPQ2d 1780, 1783-84 n.14 (Fed. Cir. 1992); *Uniroyal, Inc. v. Rudkin-Wiley Corp.*, 837 F.2d 1044, 1051, 5 USPQ2d 1434, 1438 (Fed. Cir. 1988); *Ashland Oil, Inc. v. Delta Resins & Refractories, Inc.*, 776 F.2d 281, 293, 227 USPQ 657, 664 (Fed. Cir. 1985).

After reviewing Yi, we agree with Appellants that the area defined by the dotted line 30 in Figure 8 of Yi does not correspond to a housing including an accommodation chamber to hold the support plate with the USB couplings attached to it. What the Examiner characterizes as the claimed housing in Yi is actually the outer boundary defining the non-conductive material used for encapsulation of the connector area (Figure 8; col. 4, ll. 58-64). Since the encapsulating material fills the entire space around the connectors and forms a solid housing, we find the Examiner's argument (Answer 6) that the housing 30 of Yi has to have a chamber for accommodating the support plate 16 to be unpersuasive and unsupported by the evidence of record.

Thus, assuming, *arguendo*, that it would have been obvious to combine Shiu with Yi, as held by the Examiner, the combination would still fall short of teaching or suggesting the housing including an accommodation chamber. We note that the other independent claim 10 also recites the same type of housing. Accordingly, as the Examiner has failed to set forth a prima facie case of obviousness, we cannot sustain the 35 U.S.C. § 103 rejection of claims 2 and 10 and their dependent claim 8 over Yi and Shiu.

Regarding claim 11, we note that the Examiner further relies on Capper for teaching a mounting flange. However, the Examiner points to no teachings, nor do we find any, in Capper that would have overcome the deficiencies of Yi and Shiu, as discussed above. Thus, the 35 U.S.C. § 103 rejection of claim 11 over Yi, Shiu, and Capper cannot be sustained.

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CONCLUSION

In view of the foregoing, the decision of the Examiner rejecting claims 2, 8, 10, and 11 under 35 U.S.C. § 103 is reversed.

REVERSED

PGC

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